**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**SIDE JURISDICTION**
**CRIMINAL APPLICATION NO.196 OF 2007**

Rajiv Naval Khanna and Others ...Applicants.
V/s.
State of Maharashtra & Anr. ...Respondents.

Shri C.K.Pendse, adv. for the Applicants.
Ms.S.V.Gajare, APP for the Respondent/State.
Mrs.R.V.Pradhan i/b Shri A.M.Chimalkar, advs. for the Respondent No.2.

**CORAM: J.H.BHATIA, J.**
**DATE : 25th January, 2007.**

**P.C.:**

1. Heard Mr.Pendse, the learned counsel for the applicants, Ms.Gajare, the learned APP for the State and Mrs.Pradhan i/b Shri Chimalkar, advocates for respondent no.2.

2. Mr.Pendse is granted leave to amend the age of applicant no.1. Amendment to be effected immediately.

3. Applicant nos.2 and 3 are parents and applicant no.4 is grandmother of applicant no.1. Applicant no.1 and respondent no.2-Nidhi were married on 16-6-2005. Since the marriage between them did not work out, they got separated within a short span of time. Since 12-9-2005, they are living separately. Applicant no.1 has also filed a petition no.97 of 2006 for divorce with

mutual consent. Consent terms were filed by the parties on 4th November, 2006 whereby the petitioner agreed and actually deposited an amount of Rs.6 lakhs with the Family Court at Bandra towards all claims of maintenance/permanent alimony for past, present and future of respondent no.2 and she was allowed to withdraw the said amount from the Court after disposal/quashing of criminal proceeding pending in Railway Mobile Court, Andheri being the case no.429/PW/2006 registered on the basis of complaint lodged by respondent no.2. In view of the above settlement, criminal proceeding is to be either withdrawn or quashed. However, the offence under Section 498(A) of the I.P.C. is non-compoundable, therefore, applicants have filed the present application under Section 482 of the Cr.P.C. to quash the criminal proceeding in Criminal Case No.429/PW/2006. It is contended that unless that proceeding is quashed, parties can not peacefully settle in life. Respondent no.2 has filed an affidavit-in-reply admitting the contents and supporting the petition.

4. The learned counsel for the petitioner placed reliance upon **B.S.Joshi and Others v. State of Haryana and Another** (2003) 4 Supreme Court Cases 675 wherein the Hon'ble Supreme Court observed as follows in paragraph

14 and 15:

> 14. "There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.
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> 15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

5. Thus, the Supreme Court has clearly held that even though the offence under Section 498-A of the Indian Penal Code is not compoundable, in view of the peaceful settlement of disputes between the husband and wife, the High Court can exercise its inherent powers under Section 482 of the Cr.P.C. and quash the proceedings. Section 320 of the Cr.P.C. does not limit or restrain the powers under Section 482 of the Cr.P.C. In view of the above authority of the Supreme Court, I find that this petition may be allowed in view of the

aforesaid circumstances.

6. With consent of respondent no.2, this petition is allowed in terms of prayer clauses (a) and (b) and criminal proceeding in Criminal Case No.429/PW/2006 pending on the file of the learned Magistrate, Railway Mobile Court, Andheri stands quashed. Application stands disposed off with the aforesaid directions.

**(J.H.Bhatia,J.)**